

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS

No. 6:24-cv-00303

James D. Williams,
Plaintiff,

v.

Ezenwanyi Onwuchekwa et al.,
Defendants.

ORDER

Plaintiff James D. Williams, proceeding pro se and in forma pauperis, filed this civil-rights lawsuit under 42 U.S.C. § 1983. Docs. 1, 4. The case was referred to a magistrate judge under 28U.S.C. § 636(b). Doc. 2. Plaintiff filed a second amended complaint that failed to list Mary Gorter as a defendant. Doc. 31; *see also New Orleans Ass'n of Cemetery Tour Guides & Co. v. New Orleans Archdiocesan Cemeteries*, 56 F.4th 1026, 1033 (5th Cir. 2023) (“An amended complaint supersedes the original complaint and renders it of no legal effect”).


The magistrate judge issued a report and recommendation that the court construe plaintiff’s second amended complaint as a voluntary dismissal of defendant Gorter. Doc. 40 at 2. Plaintiff did not renew any allegations or set forth any new facts or claims against Gorter in plaintiff’s second amended complaint—the live complaint. The report and recommendation notes that Gorter has not filed an answer or a motion for summary judgment. Doc. 40 at 2.

The report recommends that defendant Gorter be voluntarily dismissed pursuant to Federal Rule Civil Procedure 41(a)(1)(A)(i). Plaintiff received notice of the report and recommendation on July 8, 2025. Doc. 47. Plaintiff did not file objections to the report and recommendation. The time for doing so has passed. *See U.S. Bank Trust N.A. v. Walden*, 124 F.4th 314, 320 (5th Cir. 2024) (“Under Federal Rule of Civil Procedure 72, a

party has 14 days to file objections to the proposed findings and recommendations of the magistrate judge.”).

When there have been no timely objections to a magistrate judge’s report and recommendation, the court reviews it only for clear error. *Douglass v. United Servs. Auto. Ass’n*, 79 F.3d 1415, 1429 (5th Cir. 1996) (en banc), *superseded by statute on other grounds*, 28 U.S.C. § 636(b)(1) (extending the time to file objections from ten to fourteen days). Having reviewed the magistrate judge’s report and being satisfied it contains no clear error, the court accepts its findings and recommendation. Plaintiff’s claims against Gorter are voluntarily dismissed, without prejudice, pursuant to Rule 41(a)(1)(A)(i). The clerk of court is directed to terminate Mary Gorter as a defendant in this case.

So ordered by the court on August 27, 2025.



J. CAMPBELL BARKER
United States District Judge